

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KALVIN N. CRAVEN,

Petitioner,

v.

JASON SCHULTZ, Warden,

Respondent.

Case No. [20-cv-01933-SI](#) (PR)

**ORDER GRANTING MOTION FOR
RECONSIDERATION REGARDING
CLAIM 2; REOPENING CASE;
DIRECTING RESPONDENT TO FILE
RESPONSE ONLY AS TO CLAIM 2;
AND INSTRUCTIONS TO CLERK**

Petitioner, a state prisoner incarcerated at California State Prison - Solano, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 12, 2024, the Court denied the petition and entered judgment. Thereafter, petitioner filed a motion for relief from the judgment under Federal Rules of Civil Procedure 59(e) and 60(b), stating that the Court “committed clear error during its analysis of the issue [he] raised in Claim 2.” Dkt. 82 at 1. Specifically, petitioner argues that “the Court misstated the argument that [he] raised and completely failed to address the issue that [he] actually presented to the Court in Claim 2 . . . [which was] that his Sixth Amendment right to counsel was violated due to ex parte communication between the trial court and the deliberating jury.” *Id.* at 1-2 (citing Dkt. 1).

In the interim, petitioner has also filed a notice of appeal to the Ninth Circuit Court of Appeals. *See* Dkts. 86, 87 (9th Cir. Case No. 25-279). Also pending before the Court are petitioner’s Application for a Certificate of Appealability and motion for leave to proceed *in forma pauperis* on appeal. Dkts. 83, 85.

The Court has reviewed that record and confirms that it did not consider petitioner’s specific argument relating to the aforementioned alleged Sixth Amendment violation, which was raised in his petition and found to be cognizable, *see* Dkts. 1 at 9, 7 at 2, when it denied Claim 2, *see* Dkt. 80 at 17-20. For this reason, the motion for reconsideration is GRANTED *only* as to the Court’s denial of Claim 2, and the Clerk of the Court is ordered to REOPEN this action.

Pursuant to Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254, the Court orders as follows:

1. The Clerk shall serve a copy of this Order, the petition (Dkt. 1) and all attachments upon respondent and respondent's attorney, the Attorney General for the State of California. The Clerk shall also serve a copy of this Order on petitioner.

2. No later than **fourteen (14) days** of the date of this Order, respondent must file and serve upon petitioner a second supplemental answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued **only** as to the aforementioned alleged Sixth Amendment violation in Claim 2. Respondent must file with the second supplemental answer a copy of all portions of the court proceedings that have been previously transcribed and that are relevant to a determination of this issue.

3. If petitioner wishes to respond to the second supplemental answer, he must do so by filing a second supplemental traverse with the Court and serving it on respondent no later than **fourteen (14) days** after petitioner's receipt of the second supplemental answer.

4. Petitioner is responsible for prosecuting this case. Petitioner must promptly keep the Court informed of any change of address and must comply with the Court's orders in a timely fashion. Petitioner is cautioned that he must include the case name and case number for this case on any document he submits to this Court for consideration in this case.

5. The Court will resolve petitioner's pending Application for a Certificate of Appealability and motion for leave to proceed *in forma pauperis* on appeal (Dkts. 83, 85) in a separate written Order **after** it considers Claim 2 once briefing is submitted on the alleged Sixth Amendment violation.

6. The Clerk shall send a copy of this Order to the Ninth Circuit.

7. This Order terminates Docket No. 82.

IT IS SO ORDERED.

Dated: March 31, 2025



SUSAN ILLSTON
United States District Judge